

AO 245B Sheet 1 - Judgment in a Criminal Case - D. Massachusetts (03/02)

United States District Court

District of Massachusetts

UNITED STATES OF AMERICA
v.

FREDERICK SIMONE

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 1: 03 CR 10356 - 001 - MLW

Kevin Reddington, Esq.

Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to count(s): 4 and 5
- ☐ pleaded nolo contendere to count(s) _____ which was accepted by the court.
- ☐ was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC § 1951	Interference with Commerce by Threat or Violence	01/31/01	4
18 USC § 1951	Interference with Commerce by Threat or Violence	12/31/00	2005 JUN 28 01:35

☐ See continuation pageThe defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).☒ Count(s) 1, 2, 3, 10-26 and 39 are dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

06/16/05

Defendant's Soc. Sec. No.: XXX-XX-2461

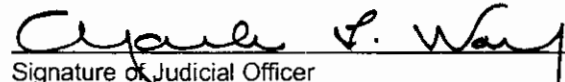
Defendant's Date of Birth: XX/XX/1950

Defendant's USM No.: 23453-038

Defendant's Residence Address:

22 Montrose Avenue
Wakefield, MA

Date of Imposition of Judgment



Signature of Judicial Officer

The Honorable Mark L. Wolf

Name and Title of Judicial Officer

I hereby certify on 6/23/05 that the foregoing document is true and correct copy of the original filed in my office on 6/23/05.

☐ electronic docket in the captioned case

☐ electronically filed original filed on June 23, 2005

☒ original filed in my office on 6/23/05

Sarah A. Thornton
Clerk, U.S. District Court
District of Massachusetts

By: 
Deputy Clerk

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AO 245B Sheet 2 - Imprisonment - D. Massachusetts (10/01)

CASE NUMBER: 1: 03 CR 10356 - 001 - MLW

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DEFENDANT: FREDERICK SIMONE

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 63 month(s)

☒ The court makes the following recommendations to the Bureau of Prisons:

That the defendant be designated to serve his sentence in a Massachusetts State Prison Facility so that the federal sentence runs concurrent with the defendant's state sentence.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before _____ on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Officer.

RETURN

I have executed this judgment as follows:

Defendant delivered on

6/16/05

to

YVA DRC

at _____, with a certified copy of this judgment.

U. Scott Knecht, RD
UNITED STATES MARSHAL

By

James H. Harvey, J.S.S.
Deputy U.S. Marshal

AO 245B, Sheet 3 - Supervised Release - D. Massachusetts (10/01)

CASE NUMBER: 1: 03 CR 10356 - 001 - MLW

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DEFENDANT:

FREDERICK SIMONE

SUPERVISED RELEASE

36 month(s)

Upon release from imprisonment, the defendant shall be on supervised release for a term of

The defendant is prohibited from possessing a firearm or other dangerous weapon.

The defendant shall cooperate in the collection of a DNA sample.

☐ See continuation page

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check if applicable.)☐ The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page (if indicated above).

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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DEFENDANT: FREDERICK SIMONE

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$200.00		

☐ The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

☐ The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>*Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
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TOTALS	<u>\$0.00</u>	<u>\$0.00</u>
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☐ See Continuation Page

☐ If applicable, restitution amount ordered pursuant to plea agreement _____

☐ The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for the ☐ fine and/or ☐ restitution.

☐ the interest requirement for the ☐ fine and/or ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

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 DEFENDANT: **FREDERICK SIMONE**

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☐ Lump sum payment of _____ due immediately, balance due
 ☐ not later than _____, or
 ☐ in accordance with ☐ C, ☐ D, or ☐ E below; or
- B ☒ Payment to begin immediately (may be combined with C, D, or E below); or
- C ☐ Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise in the special instruction above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court, unless otherwise directed by the court, the probation officer, or the United States attorney.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Case Number, Defendant Name, and Joint and Several Amount:

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

☐ See Continuation
Page

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest (7) penalties, and (8) costs, including cost of prosecution and court costs.

(Rev. 6/90)

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

V.

CRIMINAL NO. 03-10346Frederick Simone
DefendantMEMORANDUM OF SENTENCING HEARING
AND
REPORT OF STATEMENT OF REASONSWBY D.J.

Counsel and the defendant were present for sentencing hearing on 6/16/05. The matters set forth were reviewed and considered. The reasons for sentence pursuant to Title 18 U.S.C. 3553(c), as set forth herein, were stated in open court.

1. Was the presentence investigation report (PSI) reviewed by counsel and defendant including any additional materials received concerning sentencing? ✓ Yes ___ No

2.(a) Was information withheld pursuant to FRCrP 32(c)(3)(A)? ___ Yes ___ No

(b) If yes to (a), has summary been provided by the court pursuant to FRCrP 32(c)(3)(B)? ___ Yes ___ No

3.(a) Were all factual statements contained in the PSI adopted without objection? ___ Yes ✓ No

(b) If no to (a) the PSI was adopted in part with the exception of the following factual issues in dispute:

As the government and defendant agreed, the defendant was not an organizer or supervisor

(c) Disputed issues have been resolved as follows after ___ evidentiary hearing, ___ further submissions and/or ___ arguments:

[kmemsen.]

4.(a) Are any legal issues in dispute? ___Yes ___No

If yes, describe disputed issues and their resolution:

5.(a) Is there any dispute as to guideline applications (such as offense level, criminal history category, fine or restitution) as stated in the PSI? ___Yes ___No

If yes, describe disputed areas and their resolution:

(b) Tentative findings as to applicable guidelines are:

Total Offense Level: 20

Criminal History Category: IV

51 to 63 months imprisonment

24 to 36 months supervised release

\$ 7,500 to \$ 75,000 fine (plus \$ _____ cost of imprisonment/supervision)

\$ _____ restitution

\$ 200 special assessment (\$ _____ on each of _____ counts)

6.(a) Are there any legal objections to tentative findings? ___Yes ___No

(b) If no, findings are adopted by the Court.

(c) If yes, describe objections and how they were addressed:

OR sentence hearing is continued to _____
to allow for preparation of oral argument or filing of written
submissions by _____.

- 7.(a) Remarks by counsel for defendant.¹ ☒ Yes ___ No
- (b) Defendant speaks on own behalf. ☒ Yes ___ No
- (c) Remarks by counsel for government. ☒ Yes ___ No

8.(a) The sentence will be imposed in accordance with the prescribed forms in the Bench Book Sec. 5.02 as follows:

63 months imprisonment *rec serve in state facility*
be concurrent
 ___ months/intermittent community confinement
 ___ months probation
36 months supervised release *λ*
 \$ 0 fine (including cost of imprisonment/supervision)
 \$ ___ restitution
 \$ 200 special assessment (\$ ___ on each of
 counts ___)

Other provisions of sentence: (community service, forfeiture, etc.)

** No firearm or other dangerous weapon*

DNA test

- (b) ☒ After imposing sentence, the Court has advised the defendant of the defendant's right to appeal within 10 days of the entry of judgment in accordance with FRCrP 32(a)(2).

¹ The order of argument and/or recommendations and allocution may be altered to accord with the Court's practice.

9. Statement of reasons for imposing sentence.
Check appropriate space.

(a) ☒ Sentence is within the guideline range and that range does not exceed 24 months and the Court finds no reason to depart from the sentence called for by application of the guidelines.

OR ☐ Sentence is within the guideline range and that range exceeds 24 months and the reasons for imposing the selected sentence are:

(b) ☐ Sentence departs from the guideline range as a result of
☐ substantial cooperation upon motion of the government

OR

☐ a finding that the following (aggravating or mitigating) circumstance exists that is of a kind or degree not adequately taken into consideration by the Sentencing Commission in formulating the guidelines and that this circumstance should result in a sentence different from that described by the guidelines for the following reasons:

(c) ☐ Is restitution applicable in this case?

☐ Yes ☒ No

☐ Is full restitution imposed?

☐ Yes ☐ No

If no, less than full restitution is imposed for the following reasons:

(d)___ Is a fine applicable in this case?

☒ Yes ___ No

Is the fine within the guidelines imposed?

___ Yes ☒ No

If no, the fine is not within guidelines or no fine is imposed for the following reasons:

☒ Defendant is not able, and even with the use of a reasonable installment schedule is not likely to become able, to pay all or part of the required fine; or

___ Imposition of a fine would unduly burden the defendant's dependants; or

___ Other reasons as follows:

10. Was a plea agreement submitted in this case?

☒ Yes ___ No

Check appropriate space:

☒ The Court has accepted a Rule 11(e)(1)(A) charge agreement because it is satisfied that the agreement adequately reflects seriousness of the actual offense behavior and accepting the plea agreement will not undermine the statutory purposes of sentencing.

___ The Court has accepted either a Rule 11(e)(1)(B) sentence recommendation or a Rule 11(e)(1)(C) sentence agreement that is within the applicable guideline range.

___ The Court has accepted either a Rule 11(e)(1)(B) sentence recommendation or a Rule 11(e)(1)(C) sentence agreement that departs from the applicable guideline range because the Court is satisfied that such a departure is authorized by 18 U.S.C. 3553(b).

11. Suggestions for guideline revisions resulting from this case are submitted by an attachment to this report.

___ Yes ___ No

12. The PSI is adopted as part of the record, either in whole or in part as discussed above and is to be maintained by the U.S. Probation Department under seal unless required for appeal.

13. Judgment will be prepared by the clerk in accordance with above.

14. The clerk will provide this Memorandum of Sentencing Hearing And Report of Statement of Reasons to the U.S. Probation Department for forwarding to the Sentencing Commission, and if the above sentence includes a term of imprisonment, to the Bureau of Prisons.

June 16, 2005.
DATEAyan R. Way
UNITED STATES DISTRICT JUDGE